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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Tokelau

Working paper prepared by the Secretariat

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I. General background

1. Tokelau,[1] a Non-Self-Governing Territory administered by New Zealand, consists of three small atolls in the northern South Pacific (Fakaofo, Nukunonu and Atafu), with a total area of approximately 12.2 km^2. Each atoll comprises strips of land up to 200 m wide and not more than 5 m above sea level. Samoa, 480 km to the south, is the nearest sizeable neighbour and the principal point of contact for Tokelau with the outside world.

2. Tokelauans are Polynesians with linguistic, family and cultural links with Samoa. As at July 2010, the estimated population of the Territory on the atolls was 1,416. About 7,000 Tokelauans live in New Zealand. Tokelauan communities are also located in Australia, American Samoa and Samoa. As New Zealand citizens, Tokelauans may also reside in Australia.

3. The New Zealand official with principal responsibility for relations with Tokelau is the Administrator of Tokelau, who is based in Wellington and is appointed by the New Zealand Minister for Foreign Affairs. The Office of the Administrator has day-to-day responsibility for relations between New Zealand and Tokelau. The New Zealand Secretary of Foreign Affairs and Trade currently acts in the position.

II. Constitutional and political developments

A. Local self-governance

4. As reported in previous working papers on the question of Tokelau (see A/AC.109/2001/5, A/AC.109/2002/6, A/AC.109/2003/10, A/AC.109/2004/8 and A/AC.109/2005/3), the current process of constitutional development stems from the 1998 decision by the General Fono (the national representative body of Tokelau) to endorse a comprehensive report entitled "Modern house of Tokelau", which addressed the core issue that faced Tokelau in creating a constitutional framework that suited an atoll- or village-based self-governing community that respected traditional decision-making customs.

5. In accordance with the terms of the 1998 "Modern house of Tokelau" report, General Fono delegates are now elected on the basis of proportional village representation with delegates elected through universal village suffrage, rather than a system of equal village representation with delegates appointed by the respective Village Councils, as was previously the case. In 2004, further decisions were made on the method of appointment of the Chair of the General Fono and on the role and responsibilities of the six-person Council of Ongoing Government, which is the executive Government when the General Fono is not in session. The Council consists of three Faipule (representative of each village) and three Pulenuku (mayor of each village). The position of Ulu-o-Tokelau, or Head of Government, rotates

[1] The information contained in the present working paper has been derived from published sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

annually among the three Faipule. The position was held in 2009 by the Faipule of Fakaofo and in 2010 by the Faipule for Atafu.

6. Village elections for Faipule, Pulenuku and General Fono delegates are held in each village in January, every third year. The most recent elections were held from 17 to 19 January 2008. Representation in the General Fono currently stands at: Atafu, seven delegates; Nukunonu, six; and Fakaofo, seven.

7. Since July 2004, the three Village Councils have taken full responsibility for all village public services. That decision emanated from the Modern House of Tokelau approach, whereby the traditional Council of Elders on each atoll should serve as the foundation for any future governance structure. Under that arrangement, the three Village Councils would delegate authority to the General Fono for activities that needed to be handled at the national level (see A/AC.109/2005/3). The remaining aspect of the Modern House project, known as Friends of Tokelau (i.e., keeping Tokelauan communities in New Zealand and other interested parties informed of developments) is handled by the Office of the Council of Ongoing Government of Tokelau and the Office of the Administrator in Wellington. The Office of the Administrator has been incorporated into a Special Relations Unit, which is responsible for New Zealand's relationship with Tokelau (as well as with Niue), and is staffed by officers of the Ministry of Foreign Affairs and Trade. A member of the Tokelau Public Service works in the Office of the Administrator.

B. Referendum process

8. In 2003, the General Fono took a formal decision, with the support of all three Village Councils, to "endorse self-government in free association with New Zealand as the choice to be actively explored with the New Zealand Government". During a visit to Tokelau in August 2004, the then New Zealand Prime Minister welcomed decisions by Tokelau on its future political status and assured Tokelau of the ongoing friendship and support of New Zealand as it moved towards an act of self-determination.

9. In August 2005, the General Fono approved a draft constitution as the basis for the proposed act of self-determination, as well as the text of a draft treaty of free association between Tokelau and New Zealand. In November 2005, the New Zealand Cabinet gave its formal approval. The so-called "referendum package", consisting of the draft treaty and the draft constitution, was to form the basis for the referendum on self-determination. In line with a decision by the General Fono, an overall majority of two thirds of the valid votes cast was required for a change to the status of Tokelau.

10. The first referendum on self-determination was held sequentially in Apia and on the three atolls from 11 to 15 February 2006 (see A/AC.109/2006/20). The outcome of the referendum fell short of the required two-thirds majority, with 60 per cent of valid Tokelauan votes cast in favour of self-government in free association with New Zealand. The United Nations, which formally monitored the referendum, deemed the process credible and reflective of the will of the people of Tokelau. A representative of the Special Committee accompanied by a Political Affairs Officer of the Department of Political Affairs of the Secretariat also observed the referendum process.

11. In August 2006, the General Fono voted to hold a second referendum on Tokelauan self-determination in late 2007. The proposed constitution and the draft treaty, commonly referred to as the self-determination package, were to be the same and the legal threshold for acceptance of the proposal would remain at a two-thirds majority.

12. The second referendum was held from 20 to 24 October 2007. The result, with 64.4 per cent in favour, was again below the two-thirds threshold, thereby leaving the status of the Territory unchanged (see A/AC.109/2007/19). As with the first referendum, the United Nations formally monitored the voting, with representatives of the Special Committee on Decolonization and the Department of Political Affairs present as observers.

13. Following the results of the second referendum, the General Fono requested the Government of New Zealand to keep on the table the entire self-determination package (i.e., the draft treaty and draft constitution that had been agreed on and had served as the foundation for the previous ballots). The Council of Ongoing Government noted that Tokelau could in the future change the two-thirds majority threshold for the referendum, but should put in place measures to ensure that a threshold was supported by a clear majority in each village to guarantee unity. The Council of Ongoing Government also noted Tokelau's strong commitment to self-determination and its wish to have a constitution, albeit one that did not encompass the free association self-government provisions.

14. The outcomes of the referendums, neither of which reached the threshold of support set by Tokelau's General Fono for a change of status, have been acknowledged and accepted by New Zealand. As a follow-up to the 2007 referendum result, the then Prime Minister of New Zealand met with Tokelau's leaders in February 2008, to discuss the next steps in the New Zealand-Tokelau relationship. It was agreed that a "pause" should be taken in Tokelau's self-determination efforts, and that in the meantime Tokelau would focus on meeting its basic needs.

III. Economic conditions

A. General economic overview

15. Tokelau faces major constraints on its economic growth, including such natural disadvantages as small size, isolation, wide spread of the atolls, lack of natural resources, and natural disasters (such as cyclones). Tokelau's economic stability has so far been made possible by the high levels of assistance provided by the administering Power. With the continued assistance of New Zealand, the Council of Ongoing Government of Tokelau intends to maintain its focus on implementing various priority projects related to infrastructure, the delivery of core services and shipping, as well as on developing the villages and to strengthening the General Fono, the Council of Ongoing Government of Tokelau and the Tokelau Public Service.

16. Tokelau has a unique combination of traditional and modern income resource streams. With Government funding, many villagers are paid regularly for various village duties ranging from construction and boat-loading to assistance to the

General Fono and other public entities. Work is under way to identify fisheries development opportunities given the revenue earning potential for Tokelau.

17. Traditional and communal values and practices play a key role in contributing to a state of general well-being and equity in the Territory, as evidenced by the *inati* system and the importance attached to upholding the concept of the family and/or the extended family. The tradition of *inati* requires the deposit at a central location of food and produce, which is then apportioned by the distributors on the basis of "share groups". The principle provides for a secure distribution system that addresses the needs of every member of the community, including the elderly, widows, single parents and children.

18. Tokelau has been able to maintain a fairly steady level of population. For that trend to continue and to avoid the migration of skilled persons, both Tokelau and New Zealand are aware that basic services must be maintained at levels that promote confidence in the quality of life on Tokelau's atolls.

B. The administering Power's assistance to Tokelau

19. Throughout 2010, discussion continued within Tokelau and with New Zealand on appropriate and achievable goals and objectives in the area of economic development. Both Tokelau and New Zealand have reaffirmed their commitment to identifying activities and projects that can be viably established and maintained.

20. Assistance is normally provided under the terms of three-year economic support arrangements. Currently in place is a one-year interim package that commits up to $17.25 million in assistance for Tokelau. The Tokelau International Trust Fund, formally established in November 2004, is designed to provide intergenerational security and an independent source of income to Tokelau in the future. With contributions from Australia, New Zealand, Tokelau and the United Kingdom of Great Britain and Northern Ireland, the Fund now stands at approximately $NZ 61 million.

C. Transport and communications

21. Tokelau has no airstrips and its main transportation option is provided by a single vessel, the *MV Tokelau*, a ship with limited cargo and passenger capacity that provides service every two weeks between Tokelau and Apia, as well as inter-atoll services. Additional visits by larger vessels under charter from the Samoa Shipping Corporation Ltd. have also been funded to meet Tokelau's transport needs. The United Nations mission that visited the Territory in August 2002 had concluded that the lack of transportation options was one of the greatest obstacles to economic and social development in the Territory and recommended that serious consideration be given to the establishment of a dedicated inter-atoll ferry and an airstrip on one of the atolls. Recognizing that the quality of the transport service linking Tokelau's atolls and providing contact with Samoa lies at the heart of its ongoing viability, New Zealand, as the administering Power, has committed itself to a major review of Tokelau's transport needs including the possibility of an air service.

22. The ongoing development of Tokelau's infrastructure and maintenance of existing facilities is a major facet of relations between Tokelau and New Zealand.

Decisions on the prioritization of projects rest with the Government of Tokelau, both at the public service level and the village council level. Upgrading of schools and health centres is being accorded the highest priority on each atoll.

23. For more than a decade, large investments have been made to facilitate Tokelauan contacts, both inter-atoll and with the outside world. The Telecommunications Tokelau Corporation, a $NZ 4 million international telecommunication service, was established in 1997. A website (www.dot.tk) became operational in January 2002 and offers both free and paid domain names. The website is the result of a commercial licensing agreement between the Corporation and a private company, Taloha Inc. Pursuant to a request from the atolls, the Corporation began to install new equipment in the atolls in 2009 to boost telecommunication services in the villages and to assist in creating Internet-based long-distance education opportunities.

24. In 2002, FM radio stations were inaugurated on each of the atolls with funding from New Zealand. The radio stations are seen as an excellent means of maintaining the Territory's cultural heritage, as well as facilitating communication and transparency on community and decision-making matters, since they broadcast meetings of the Council of Elders on each atoll.

D. Power supply

25. In 2008, a diesel-powered electricity system was largely completed in all three atolls, under the auspices of the New Zealand Agency for International Development, at a cost of $NZ 3 million. Tokelau remains keenly committed to maximum reliance on renewable energy, for environmental and economic reasons, and is working to develop appropriate strategies. The pilot photovoltaic energy grid project funded by the United Nations Development Programme and the Government of France, covering 15 households on Fakaofo, is currently being rolled out to other communities in Tokelau.

IV. Social conditions

A. Education

26. Under Tokelau's compulsory education system, primary and secondary education are available to everyone. As a member of the University of the South Pacific, Tokelau also has access to the University's educational telecommunication system through a satellite established in Atafu. Despite significant funding for education over many years, education standards on the atolls remain relatively low. This is a key reason why significant numbers of families leave the atolls to seek improved educational opportunities for their children in New Zealand, Samoa and elsewhere. A major infrastructure renewal programme is continuing in Tokelau, which includes the provision of new schools in Atafu and Fakaofo. Efforts have also been devoted to curriculum development, training of principals and senior staff and the extension of secondary schooling in 2009 to cover year 13. Tokelau is also working closely with the Secretariat of the Pacific Community to explore better Internet access.

B. Health care

27. The provision of adequate health services to the populations of three dispersed atolls connected to the wider world by sea transport will remain a major challenge for Tokelau.

28. The major non-local sources of contributions to health care are the Government of New Zealand, the World Health Organization (WHO), the United Nations Children's Fund, the United Nations Population Fund and UNDP, as well as the Government of Australia and the Secretariat of the Pacific Community. The priorities of the national health plan are: (a) healthy islands and communities; (b) healthy lifestyles; (c) development of health partnerships; (d) development of accessible primary health-care services; (e) successful community participation; and (f) development and improvement of the health-service system.

29. Each of Tokelau's atolls has a basic health centre, staffed and equipped to deliver core medical care and related services. Considerable attention and funding is devoted to this core area of Tokelau's needs. As part of a major infrastructure renewal programme, Nukunonu is in the process of having its health centre substantially improved.

30. According to WHO, the general health status of Tokelauans is reasonably good; however, tobacco and alcohol consumption are relatively high among the adult population, especially in males. Obesity is widespread, with a prevalence of 70 per cent for men and 83 per cent for women 30 to 39 years of age and is attributed to diet and physical inactivity.[2]

V. External relations

31. As set out in paragraphs 9 and 10 of the Principles of Partnership statement, Tokelau as a Non-Self-Governing Territory has insufficient international legal personality to enter into formal international legal obligations as a State in its own right. New Zealand is responsible for entering into any such obligations on behalf of Tokelau, after consulting with Tokelau as to its wishes. Tokelau participates in regional and international organizations in its own right to the extent that those organizations provide for such participation.

32. Tokelau is a member of the Forum Fisheries Agency, the South Pacific Community, the University of the South Pacific and the Pacific Regional Environment Programme. In October 2005, Tokelau was admitted as an Associate Member of the South Pacific Applied Geoscience Commission and in the Pacific Islands Forum. Tokelau is an Associate Member of WHO and of the United Nations Educational, Scientific and Cultural Organization. Apart from its relationship with New Zealand, Samoa constitutes another important bilateral contact for Tokelau.

[2] Information provided by WHO Samoa office.

VI. Future status of the Territory

A. Position of the territorial Government

33. Speaking at the June 2010 session of the Special Committee, the Ulu-o-Tokelau said that Tokelau's relationship with New Zealand remained strong despite its challenges. The Territory intended to exercise the act of self-determination whenever its people considered that appropriate. Though they enjoyed a substantial degree of autonomy in the management of their affairs, it was not the same thing as being fully answerable to their Government. Meanwhile, Tokelau was working closely with New Zealand to ensure the maintenance of support in the key areas of transport, health, education and other sectors under the Tokelau National Strategic Plan 2010-2015. The Ulu-o-Tokelau informed the Special Committee that the Constitutional Committee of the Territory planned to discuss issues related to the establishment of an appropriate governance structure prior to revisiting the issue of self-determination.

34. The Ulu-o-Tokelau acknowledged the assistance of the international community and members of the United Nations system, especially UNDP, in meeting Tokelau's needs. He expressed appreciation to the Special Committee, in particular to Papua New Guinea and Fiji, for their support and understanding of the situation in Tokelau.

B. Position of the administering Power

35. As the administering Power for Tokelau, New Zealand has continued to maintain and provide all appropriate support for Tokelau's efforts to determine the will of its people for a possible change of status. Successive Administrators and representatives of New Zealand to the United Nations have placed on record before the Special Committee and the Special Political and Decolonization Committee (Fourth Committee) full information about New Zealand's support for Tokelau on this issue. This attitude towards the needs and aspirations of the people of Tokelau has been favourably acknowledged by those Committees on many occasions.

36. Addressing the Special Committee on 25 June 2010, the representative of New Zealand noted that, at the current stage, the primary focus in the relationship was to provide quality services and living conditions for the people of Tokelau. On the basis of the 2008 commitment by New Zealand and Tokelau leaders, "an appreciable period of time" should elapse before any further act of self-determination was undertaken by Tokelau, and both parties in the relationship would devote their time, efforts and resources to address the core requirements of the population of the atolls.

37. Speaking before the Fourth Committee on 8 October 2010, the representative of New Zealand said that her country remained committed to working with the Special Committee to ensure that timely and accurate information about Tokelau was provided for the Committee's consideration and for the information of the wider United Nations system. She confirmed New Zealand's commitment to working with Tokelau to address the core requirements of the population of the atolls.

C. Consideration of the question by the Special Political and Decolonization Committee (Fourth Committee)

38. While introducing a draft resolution on Tokelau at the Special Committee, the representative of Papua New Guinea said the draft text contained mostly technical updates to the 2009 resolution. Of more significance was the adoption by Tokelau of its National Strategic Plan 2010-2015. He commended the Government of New Zealand for its readiness to cooperate with the Committee and its exemplary efforts in assisting the people of Tokelau in their endeavours to exercise the act of self-determination.

D. Action taken by the General Assembly

39. At its 62nd plenary meeting, on 10 December 2010, the General Assembly adopted without a vote resolution 65/114 on the question of Tokelau.

40. Under the operative part of that resolution, the General Assembly:

1. *Notes* that Tokelau and New Zealand remain firmly committed to the ongoing development of Tokelau for the long-term benefit of the people of Tokelau, with particular emphasis on the further development of facilities on each atoll that meet their current requirements;

2. *Welcomes* the progress made towards the devolution of power to the three taupulega (village councils), in particular the delegation of the Administrator's powers to the three taupulega with effect from 1 July 2004 and the assumption by each taupulega from that date of full responsibility for the management of all its public services;

3. *Recalls* the decision of the General Fono in November 2003, following extensive consultations in all three villages and a meeting of the Special Committee on the Constitution of Tokelau, to explore formally with New Zealand the option of self-government in free association, and the discussions subsequently held between Tokelau and New Zealand pursuant to the decision of the General Fono;

4. *Also recalls* the decision of the General Fono in August 2005 to hold a referendum on self-government on the basis of a draft constitution for Tokelau and a draft treaty of free association with New Zealand, and notes the enactment by the General Fono of rules for the referendum;

5. *Further recalls* that two referendums to determine the status of Tokelau, held in February 2006 and October 2007, did not produce the two-thirds majority of the valid votes cast required by the General Fono to change Tokelau's status from that of a Non-Self-Governing Territory under the administration of New Zealand;

6. *Commends* the professional and transparent conduct of both the February 2006 and the October 2007 referendums, monitored by the United Nations;

7. *Acknowledges* the decision of the General Fono that consideration of any future act of self-determination by Tokelau will be deferred and that New Zealand and Tokelau will devote renewed effort and attention to ensuring

that essential services and infrastructure on the atolls of Tokelau are enhanced and strengthened, thereby ensuring an enhanced quality of life for the people of Tokelau;

8. *Also acknowledges* Tokelau's adoption of its National Strategic Plan for 2010-2015;

9. *Further acknowledges* the ongoing and consistent commitment of New Zealand to meeting the social and economic requirements of the people of Tokelau, as well as the support and cooperation of the United Nations Development Programme;

10. *Acknowledges* Tokelau's need for continued support from the international community;

11. *Recalls with satisfaction* the establishment and operation of the Tokelau International Trust Fund to support the ongoing needs of Tokelau, and calls upon Member States and international and regional agencies to contribute to the Fund and thereby lend practical support to Tokelau in overcoming the problems of smallness, isolation and lack of resources;

12. *Welcomes* the cooperative attitude of the other States and territories in the region towards Tokelau, and their support for its economic and political aspirations and its increasing participation in regional and international affairs;

13. *Calls upon* the administering Power and United Nations agencies to continue to provide assistance to Tokelau as it further develops;

14. *Welcomes* the actions taken by the administering Power to transmit information regarding the political, economic and social situation of Tokelau to the Secretary-General;

15. *Also welcomes* the commitment of both Tokelau and New Zealand to continue to work together in the interests of Tokelau and its people;

16. *Requests* the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to examine the question of the Non-Self-Governing Territory of Tokelau and to report thereon to the General Assembly at its sixty-sixth session.

41. At the same meeting, the General Assembly also adopted resolution 65/117 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, paragraph 6 of which refers to Tokelau.